

## HOUSE BILL No. 1563

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1.

**Synopsis:** Property tax payments. Requires payment of delinquent and current property taxes before certain transfers of real property. Creates a state lien on real property for the enforcement of personal property taxes. Creates deadlines for processing of refund claims from the county surplus tax fund.

**Effective:** July 1, 2003.

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### Moses, Ripley

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January 16, 2003, read first time and referred to Committee on Ways and Means.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1563

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-1.1-5-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If a division,  
3 partition, or change of ownership of any real property is made by  
4 conveyance, sale, devise, or descent, the county auditor, except as  
5 provided in sections 5.5 and 9 of this chapter and IC 6-1.1-2-4, shall  
6 transfer the real property on the last assessment list. In addition, the  
7 auditor, except as provided in sections 5.5 and 9 of this chapter, shall  
8 apportion the assessed value of the real property and all delinquent  
9 taxes on the real property among the several owners.  
10 (b) **This subsection applies to real property for which title is**  
11 **transferred in a transaction described in subsection (a) after April**  
12 **30 and before January 1 of the immediately following year. Except**  
13 **as provided in section 9 of this chapter, before the county auditor**  
14 **may transfer the real property on the last assessment list or**  
15 **apportion the assessed value of the real property among the**  
16 **owners, the owner must pay or otherwise satisfy all property taxes**  
17 **on the real property that:**



(1) are delinquent on the date title is transferred;  
 (2) if title is transferred on or before the May installment date under IC 6-1.1-22-9, are due on:

(A) the May installment date; and

(B) the November installment date;  
 under IC 6-1.1-22-9; and

(3) if title is transferred after the May installment date and on or before the November installment date under IC 6-1.1-22-9, are due on the November installment date under IC 6-1.1-22-9;

by paying the property taxes to the county treasurer of the county in which the real property is located.

SECTION 2. IC 6-1.1-5-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.5. (a) Before an owner records a transfer of an ownership interest in a parcel of real property that is created after the person became owner of the real property and is created either from a larger previously existing parcel or a combination of previously existing smaller parcels, the owner must submit, except as provided in section 9 of this chapter, the instrument transferring the real property to the county auditor to be entered for taxation.

(b) The county auditor, except as provided in section 9 of this chapter, shall endorse on the instrument "duly entered for taxation subject to final acceptance for transfer" or another endorsement authorized under section 4 of this chapter.

(c) A lien for and the duty to pay property taxes that are due and owing is not released or otherwise extinguished if a county auditor endorses an instrument of transfer under this section. Property taxes that are due and owing on the affected parcel of property may be collected as if the county auditor had not endorsed the instrument of transfer.

(d) Except as provided in section 9 of this chapter, before the county auditor may transfer real property described in subsection (a) on the last assessment list or apportion the assessed value of the real property among the owners, the owner must pay or otherwise satisfy:

(1) all property taxes for which the due date has passed as of the date of transfer; that are delinquent on the date title is transferred in a transaction described in subsection (a); and  
 (2) with respect to real property for which title is transferred in a transaction described in subsection (a) after April 30 and before January 1 of the immediately following year:

(A) if title is transferred on or before the May installment

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1 date under IC 6-1.1-22-9, all property taxes that are due  
2 on:

3 (i) the May installment date; and

4 (ii) the November installment date;

5 under IC 6-1.1-22-9; and

6 (B) if title is transferred after the May installment date and  
7 on or before the November installment date under  
8 IC 6-1.1-22-9, are due on the November installment date  
9 under IC 6-1.1-22-9;

10 on each of the parcels of real property from which the transferred  
11 property is derived by paying the property tax to the county treasurer  
12 of the county in which the real property is located. The county auditor,  
13 except as provided in section 9 of this chapter, may not apportion  
14 delinquent taxes described in this subsection among the owners.

15 SECTION 3. IC 6-1.1-23-1 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Annually, after  
17 November 10th but prior to August 1st of the succeeding year, each  
18 county treasurer shall serve a written demand upon each county  
19 resident who is delinquent in the payment of personal property taxes.  
20 The written demand may be served upon the taxpayer:

21 (1) by registered or certified mail;

22 (2) in person by the county treasurer or his deputy; or

23 (3) by proof of certificate of mailing.

24 (b) The written demand required by this section shall contain:

25 (1) a statement that the taxpayer is delinquent in the payment of  
26 personal property taxes;

27 (2) the amount of the delinquent taxes;

28 (3) the penalties due on the delinquent taxes;

29 (4) the collection expenses which the taxpayer owes; and

30 (5) a statement that if the sum of the delinquent taxes, penalties,  
31 and collection expenses are not paid within thirty (30) days from  
32 the date the demand is made then:

33 (A) sufficient personal property of the taxpayer shall be sold  
34 to satisfy the total amount due plus the additional collection  
35 expenses incurred; or

36 (B) a judgment may be entered against the taxpayer in the  
37 circuit court of the county.

38 (c) This subsection applies only to property taxes first due and  
39 payable after December 31, 2004. If a county resident who is  
40 delinquent in the payment of personal property taxes as described  
41 in subsection (a) owns real property in Indiana, the state acquires  
42 a lien on each tract of real property owned by the county resident

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1 for all personal property taxes, and for all subsequent penalties  
 2 and costs resulting from the taxes. The lien of the state is  
 3 administered and applies in the same manner as the lien for real  
 4 property taxes under IC 6-1.1-22-13.

5 SECTION 4. IC 6-1.1-26-6 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Notwithstanding  
 7 the other provisions of this chapter, each county treasurer shall place  
 8 the portion of a tax or special assessment payment which exceeds the  
 9 amount actually due, as shown by the tax duplicate or special  
 10 assessment records, in a special fund to be known as the "surplus tax  
 11 fund". Amounts placed in the fund shall first be applied to the  
 12 taxpayer's delinquent taxes in the manner provided in IC 6-1.1-23-5(b).  
 13 The taxpayer may ~~then~~ **at any time** file a verified claim for money  
 14 remaining in the surplus tax fund. **The claim must include the**  
 15 **taxpayer's proof of payment.** The county treasurer or county auditor  
 16 shall require reasonable proof of payment by the ~~person~~ **taxpayer**  
 17 making the claim. **Not later than fourteen (14) days after the filing**  
 18 **of the claim, the county auditor and the county treasurer shall**  
 19 **approve or disapprove the claim.** If the claim is approved by the  
 20 county auditor and the county treasurer, the county auditor shall issue  
 21 a warrant to the taxpayer **not later than ten (10) days after the date**  
 22 **of approval** for the amount due the taxpayer.

23 (b) Not less frequently than at the time of each semiannual  
 24 settlement, the county treasurer shall prepare duplicate schedules of all  
 25 excess payments received. The schedules shall contain the name on the  
 26 tax duplicate, the amount of excess paid, and the taxing district. The  
 27 county treasurer shall deliver one (1) copy of the schedule to the county  
 28 auditor. Within fifteen (15) days after receiving the schedule, the  
 29 county auditor shall review the schedule, and if the county auditor  
 30 concurs with the schedule, the county auditor shall notify the county  
 31 treasurer that the notice required under subsection (d) may be sent. The  
 32 county auditor shall preserve the schedule, and if a refund is  
 33 subsequently made, he shall note on the schedule and notify the county  
 34 treasurer of the date and amount of the refund. In addition, when  
 35 money is transferred from the surplus tax fund to the county general  
 36 fund under subsection (c), the county auditor shall note the date and  
 37 amount of the transfer on the schedule.

38 (c) If an excess payment is not claimed within the three (3) year  
 39 period after November 10 of the year in which the payment was made  
 40 and the county treasurer has given the written notice required under  
 41 subsection (d), the county auditor shall transfer the excess from the  
 42 surplus tax fund into the general fund of the county. If the county

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1 treasurer has given written notice concerning the excess under  
2 subsection (d), the excess may not be refunded under subsection (a)  
3 after the expiration of that three (3) year time period.

4 (d) This subsection applies only if the amount of an excess payment  
5 is more than five dollars (\$5) and exceeds the amount applied under  
6 subsection (a) to property taxes that are delinquent at the time that the  
7 excess payment is transferred to the surplus tax fund. Not later than  
8 forty-five (45) days after receiving the notification from the county  
9 auditor under subsection (b), the county treasurer shall give the  
10 taxpayer who made the excess payment written notice that the taxpayer  
11 may be entitled to a refund. The notice shall be mailed to the last  
12 known address of the taxpayer as listed on the tax duplicate or the most  
13 current record of the county treasurer. The notice must contain at least  
14 the following information:

- 15 (1) A statement that the taxpayer may be entitled to a refund  
16 because the taxpayer made an excess payment.
- 17 (2) The amount of the refund.
- 18 (3) Instructions on how to claim the refund.
- 19 (4) The date before which the refund must be claimed under  
20 subsection (c).
- 21 (5) An explanation that the amount of the refund will be reduced  
22 by any amount applied to property taxes that are delinquent.

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